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Security Council

Sixty-first year

Provisional

5589th meeting

Thursday, 14 December 2006, 3.20 p.m.

New York

President:	Mr. Al-Nasser	(Qatar)
Members:	Argentina	Mr. Mayoral
	China	Mr. Li Kexin
	Congo	Mr. Ikouebe
	Denmark	Mr. Christensen
	France	Mr. Lacroix
	Ghana	Nana Effah-Apenteng
	Greece	Mr. Vassilakis
	Japan	Mr. Shinyo
	Peru	Mr. Voto-Bernales
	Russian Federation	Mr. Rogachev
	Slovakia	Mr. Burian
	United Kingdom of Great Britain and Northern Ireland	Ms. Pierce
	United Republic of Tanzania	Mr. Manongi
	United States of America	Mr. Brencick

Agenda

Reports of the Secretary-General on the Sudan

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06-66000 (E)

The meeting was called to order at 3.30 p.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President (*spoke in Arabic*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I invite Mr. Luis Moreno-Ocampo to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to whom I give the floor.

Mr. Moreno-Ocampo: I welcome this opportunity to brief the Council on the activities of my Office since my last report in June.

My Office is currently completing an investigation and the collection of sufficient evidence to identify those who bear the greatest responsibility for some of the worst crimes in Darfur. The evidence provides reasonable grounds to believe that the individuals identified have committed crimes against humanity and war crimes, including the crimes of persecution, torture, murder and rape, during a period in which the gravest crimes occurred in Darfur.

Throughout the process, I have devoted considerable resources and given careful attention to the issue of admissibility. In November this year, I requested an update from the Government of the Sudan relating to its national proceedings. Since the submission of my report to the Council, I have received a formal response from the Government of the Sudan reporting that 14 individuals have been arrested for violations of international humanitarian law and human rights abuses. Those indications do not appear to render the current case inadmissible, and I am therefore planning to finalize the submission for the Judges by February 2007. In its response, the Government notes its previous cooperation concerning the investigation of crimes against humanity in Darfur and reaffirms its commitment to the principle of continuing cooperation with the International Criminal Court. I will therefore request its cooperation to facilitate a visit by representatives of my Office to the Sudan in January to gather information on those developments.

By making those advances, I am fulfilling my responsibilities under the Rome Statute, as well as the task set by this Council in resolution 1593 (2005). Since the adoption of the resolution, the violence in Darfur has continued and the suffering of the people of Darfur, including the millions of displaced persons, has grown worse. There are also worrying reports of a spillover of violence into Chad and the Central African Republic.

This Council has recognized that justice for the victims will contribute to enhancing security and send an important warning beyond the borders of Darfur to those individuals who might otherwise resort to violence and the commission of crimes to achieve their aims.

My Office cannot investigate all of the hundreds of alleged criminal incidents and prosecute all the alleged perpetrators of crimes in Darfur. I have therefore focused on the most serious incidents and the individuals with the greatest responsibility for those incidents. Following an analysis of the universe of crimes alleged to have been committed in Darfur, I focused the collection of evidence on a series of incidents that occurred in 2003 and 2004, during a period when and in a location where the highest numbers of crimes were recorded.

The Office has collected evidence from a wide range of sources, thoroughly investigating incriminating and exonerating facts in an equal, independent and impartial manner. Those sources include statements from victims as well as Sudanese officials, thousands of documents collected by the International Commission of Inquiry for Darfur and information provided by the National Commission of Inquiry, as well as documents and materials generated by this Council, States and other international organizations.

The Government of the Sudan has participated in the process. I would like to recall that, in May 2006, the Sudanese authorities provided a written report responding to questions submitted by my Office. That report outlined the various phases of the conflict from the Government's perspective, offered information relating to the activities of the military and security structures operating in Darfur, as well as of the other parties to the conflict, and the legal system governing the conduct of military operations. The report was supplemented by a meeting between representatives of my Office and military officers in Khartoum in June 2006. In August 2006, representatives of my Office again travelled to the Sudan and interviewed two high-ranking civilian and military officials. Those individuals, due to their positions and functions, had knowledge and information relating to the activities of the security forces in Darfur and the conduct of the other parties to the conflict.

Reaching the victims was at all times a priority for my Office. Since the start of the investigation, the Darfur team has conducted more than 70 missions to 17 countries, screening hundreds of potential witnesses and taking more than 100 formal witness statements, many of which were with victims.

On the basis of careful evaluation of that evidence, my Office has identified some of the gravest criminal incidents and some of the individuals who could be considered to bear the greatest responsibility. The evidence proves that numerous crimes falling within the jurisdiction of the Court were committed, including such crimes against humanity as persecution, murder and wilful killing, rape and other forms of sexual violence, inhumane acts, cruel treatment, outrages upon personal dignity and pillaging, as well as war crimes such as wilful killing, extrajudicial killing, rape and intentional attacks against civilians.

In previous reports to the Council, I highlighted the fact that the International Criminal Court is a court of last resort. Cases will be prosecuted before the International Criminal Court in situations where there has not been a national investigation or prosecution of the case being brought to the Court by my Office, or where there is, or has been, such an investigation or prosecution but where it was vitiated by an unwillingness or inability to genuinely carry out that investigation or prosecution.

During each of the four missions to the Sudan, my Office met with judicial and legal officers, representatives of the Darfur special courts and officials from the Ministry of Justice and other relevant Government departments. In June this year, the Office had information indicating that the special courts had tried six cases, involving less than 30 suspects. Those suspects included 18 low-ranking military officers, with the remainder being civilians. The Judicial Investigation Committee had not completed any investigations or prosecutions, and the Special Prosecutions Commission was continuing investigations into one incident and had acquitted individuals charged with war crimes in relation to another incident. In November 2006, the Government of the Sudan provided additional information to the Office relating to reported prosecutions of rape cases involving members of the police forces and regular armed forces.

It is important to reiterate that the admissibility assessment is not a judgement on the Sudanese justice system as a whole, but an assessment as to whether or not the Government of the Sudan has undertaken genuine proceedings in relation to the cases selected by my Office for prosecution. In this context, a case involves the specific incidents in which crimes were committed by identified perpetrators.

My Office has assessed whether or not the Sudanese authorities are conducting, or have conducted, genuine national proceedings in relation to the same incidents and individuals identified in the current case. As I indicated earlier, since I submitted my report the Government of the Sudan has written to formally indicate that there are developments in the work of the "Judicial Investigation Commission for Investigation and Inquiry [into] Crimes Violating Human Rights and International Humanitarian Law in Darfur", including the arrest of 14 individuals suspected of violations of international humanitarian law and human rights abuses. Those indications do not appear to render the current case inadmissible. Therefore, by February 2007, I plan to finalize the submission to the judges and enhance the necessary security measures.

I will request the cooperation of the Government of the Sudan in facilitating a visit by members of my Office in January to gather further information on those developments. It will be important during that visit to have access to relevant documents, as well as to

the individuals in custody for the purposes of carrying out interviews.

I share the grave concerns expressed by the Secretary-General and the Council in relation to the ongoing violence in Darfur and the reports of a spillover of violence into Chad and the Central African Republic. The perpetrators of those crimes are standing in the way of progress towards peace and security in Darfur, as well as in neighbouring countries.

Despite the signing of the Darfur Peace Agreement by some of the parties to the conflict, there continue to be almost daily allegations of serious crimes, some of which may fall within the jurisdiction of the Court. Violent clashes between factions within the movements, as well as between the different movements, have led to significant numbers of civilians being killed. There are also disturbing reports of a repetition of similar patterns associated with earlier crimes, including reports of attacks on civilian locations by armed militias supported by elements of the Sudanese security forces. Incidents of rape and sexual assault continue to be reported at very high levels.

Attacks on humanitarian personnel and peacekeepers are another prominent feature of the current situation in Darfur. Between July and September alone, there were reports of the hijacking of 21 humanitarian transports and the ambushing and looting of more than 31 convoys, leading to the deaths of six humanitarian workers and two military observers. Those and other such attacks have caused some organizations to withdraw from Darfur, further entrenching the plight, and endangering the lives, of millions of displaced persons. Attacks on humanitarian personnel are prohibited under international humanitarian law and constitute war crimes falling within the jurisdiction of the Court. The Office continues to collect information relating to those attacks and to those responsible, and may take further action before the Court or provide the information to other relevant authorities where appropriate.

The persistent lack of security in Darfur is also reported to have spilled over into Chad and the Central African Republic, leading to allegations of crimes having been committed on the territory of those States. On 1 November, the Government of Chad acceded to the Rome Statute. The Statute will therefore enter into force on 1 January 2007. The Central African Republic is also a State party to the International Criminal Court. The Office is therefore closely following the situation in Chad and the Central African Republic, as well as possible links to the situation in Darfur.

The cooperation of the African Union remains important to progress in current and future investigations. Following my briefing to the Council in June, I travelled to Addis Ababa with the President of the Court to brief the African Union Peace and Security Council on the activities of the Court, including in relation to Darfur. I also met with Mr. Konare, Chairperson of the African Union Commission, and Ambassador Djinnit, Commissioner for Peace and Security. That visit provided a valuable opportunity to exchange views on the situation in Darfur and enhance understanding as to the procedures and work of the Court. I am discussing a visit to Brazzaville, to have a meeting with the President of the African Union, and I intend to hold further briefings with the African Union as well as the Arab League in 2007.

There has also been progress in relation to the requests for assistance transmitted by my Office in February 2006 to the African Union Mission in the Sudan (AMIS). The first batch of information from AMIS was delivered in June, and we are working to collect the remaining information requested, as well as preparing additional requests for assistance.

I have repeated, on a number of occasions, that the participation of the Government of the Sudan in the process is important to ensure an impartial investigation and a view of the events in Darfur that is as balanced as possible. Various requests for assistance have been made in 2005 and 2006 to the Government of the Sudan. A detailed request was submitted to the Sudanese authorities in June 2006, including a request for specified documentation and access to civilian and military officials for interview purposes.

As I indicated earlier, in August 2006, representatives from my Office travelled to the Sudan and conducted formal witness interviews with two senior Government officials, who because of their positions could provide information relating to the conflict in Darfur and to the activities of the security forces and other groups. Meetings also took place with other officials who provided an update on national proceedings. A limited amount of documentation was also provided.

There are a number of outstanding requests for documents and interviews that remain an important feature of the fact-finding process. I will continue to seek that information from the Government of the Sudan, and I will keep the Council informed of progress in that regard.

By referring the situation in Darfur to the Court, the Security Council has reaffirmed that peace and security require justice. That relates not only to past crimes, but also to the current crimes that are protracting the suffering of millions of those who are most vulnerable, including those in the camps for the displaced, and threatening stability beyond the borders of Darfur.

As my Office moves towards the completion of the investigation and the presentation of evidence in relation to the first case, it sends a signal to those who are considering committing further crimes that they cannot do so with impunity. The strength and impact of that signal depends on the support and cooperation of the Council, the Government of the Sudan and other relevant States.

The President (*spoke in Arabic*): I thank Mr. Moreno-Ocampo for his briefing to the Security Council.

In accordance with the understanding reached in the Council's prior consultations, I now invite Council members to a private meeting following the adjournment of this meeting.

The meeting rose at 3.40 p.m.